

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

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6 UNITED STATES OF AMERICA

18-CR-6094(G)

7

8 vs.

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10 XAVIER TORRES,

11 Defendant.

Rochester, New York  
September 20, 2021  
3:37 p.m.

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14 TRANSCRIPT OF PROCEEDINGS  
15 BEFORE THE HONORABLE FRANK P. GERACI, JR.  
16 UNITED STATES DISTRICT JUDGE

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18 JAMES P. KENNEDY, JR., ESQ.  
19 United States Attorney  
20 BY: ROBERT A. MARANGOLA, ESQ.  
21 CASSIE M. KOCHER, ESQ.  
22 Assistant United States Attorneys  
23 500 Federal Building  
24 Rochester, New York 14614  
25 Appearing on behalf of the United States

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18 MAURICE J. VERRILLO, ESQ.  
19 3300 Monroe Avenue  
20 Suite 301  
21 Rochester, New York 14618  
22 Appearing on behalf of the Defendant

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24 COURT REPORTER: Christi A. Macri, FAPR-RMR-CRR-CSR(NY/CA)  
25 Christimacri50@gmail.com  
Kenneth B. Keating Federal Building  
100 State Street, Room 2640  
Rochester, New York 14614

## PROCEEDINGS

\* \* \*

(**WHEREUPON**, the defendant is present).

**THE CLERK:** This is the matter of 18-CR-6094, United  
Xavier Torres.

**THE COURT:** Are you Xavier Torres?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Appear with your attorney Mr. Verrillo.

Mr. Marangola is here on behalf of the Government

03:37:34PM10 | with Ms. Kocher.

11 This matter was on regarding rescheduling of the  
12 trial.

13 Mr. Marangola, do you want to be heard?

19 So I guess my request -- I know Ms. Rand sent an  
03:38:04PM20 e-mail about rescheduling this matter to potentially the 28th.

21 THE COURT: That was just an error.

22                           **MR. MARANGOLA:** And so I -- if it's possible to move  
23 our date from -- we have it originally, I believe, on the  
24 Tuesday after Columbus Day, I believe that's the 12th. And  
03:38:19PM25 then the Court advanced it because of the potential concern

1 about picking a jury with Covid.

2 I was hoping that we could move it back to either  
3 the 18th -- the week of the 18th, or if possible the 25th,  
4 Monday the 25th. I spoke to Mr. Verrillo and he's okay with  
03:38:39PM 5 either of those timeframes. That would assist us in preparing  
6 our witnesses.

7 I have provided the *Jencks*, so Mr. Verrillo would  
8 be in possession of that material for an extra week or so, but  
9 that would be our request, Judge.

03:38:52PM10 **THE COURT:** Mr. Verrillo?

11 **MR. VERRILLO:** My speaker is not on. It is? Okay,  
12 I'm sorry.

13 Your Honor, I did receive the message from Ms. Rand  
14 and I would -- obviously I'm preparing for the trial. I would  
03:39:08PM15 prefer the 25th, if the Court would consider that, to get  
16 started.

17 **THE COURT:** Well, it was scheduled for the 12th. We  
18 moved it up because the situation we're in we can't select  
19 more than one jury at a given time and that's why I asked  
03:39:24PM20 counsel to be available on the 7th to select this jury. Both  
21 counsel were accommodating for that, so I appreciate that.

22 The 18th was not available because Judge Siragusa  
23 had a trial that my understanding has been moved to January or  
24 December, I can't remember which.

03:39:41PM25 So the 18th is available now and I'd like to do it

1 then so we can block off four weeks, if we need to. As I  
2 indicated, I'm going to be gone the end of November, so if we  
3 can do it January (sic) 18th, 8:30 for jury selection.

4 **MR. VERRILLO:** You're saying October? Is it  
03:39:58PM 5 October?

6 **THE COURT:** What did I say?

7 **MR. VERRILLO:** January.

8 **THE COURT:** October. I misspoke. October. October  
9 18th at 8:30, okay?

03:40:07PM10 **MR. MARANGOLA:** Yes.

11 **THE COURT:** All right. Any objection to excluding  
12 any speedy trial time between the previous date, the 7th, and  
13 that date?

14 **MR. VERRILLO:** No objection, Your Honor.

03:40:21PM15 **THE COURT:** Okay, okay. Based upon everyone's  
16 schedule, in order to properly prepare -- as Mr. Verrillo  
17 indicated, he does need additional time to prepare as well,  
18 the time up to October 18th will be excluded in the interest  
19 of justice. Thank you.

03:40:38PM20 **MR. VERRILLO:** Judge, I'm sorry. With respect to  
21 the calender, I have a few dates in November that I have some  
22 issues with. Should I just send you a letter? I don't know  
23 how you want to deal with it.

24 **THE COURT:** What dates are those?

03:40:50PM25 **MR. VERRILLO:** Well, I have -- I'm assuming we'd go

1 to 1:30 on these days?

2 **THE COURT:** What's that?

3 **MR. VERRILLO:** I would assume we're going to go  
4 through 1:30 each of these days is our plan?

03:41:01PM 5 **THE COURT:** Yes.

6 **MR. VERRILLO:** I did have a matter in Cheektowaga  
7 Court at 11:30 on the 8th. It's a motion.

8 **THE COURT:** November 8th?

9 **MR. VERRILLO:** Yes.

03:41:11PM 10 **THE COURT:** What time is that?

11 **MR. VERRILLO:** At 11:30.

12 **THE COURT:** So you'd not be available that day?

13 **MR. VERRILLO:** Well, I also have a hearing that  
14 afternoon, but I wasn't assuming anything with that because of  
03:41:32PM 15 the way the Court was.

16 **THE COURT:** You have a hearing that afternoon?

17 **MR. VERRILLO:** Yes.

18 **THE COURT:** In that county?

19 **MR. VERRILLO:** Yes. It's actually a virtual one in  
03:41:40PM 20 Monroe County at 2 o'clock.

21 **THE COURT:** Okay, I guess I'm confused. What did  
22 you say about 11:30 on November 8th?

23 **MR. VERRILLO:** I have a matter in -- let me make  
24 sure I give you the right -- I have a matter in Cheektowaga  
03:41:52PM 25 Town Court. There are two separate matters; one matter is on

1 for argument of motions in Cheektowaga Town Court at 11:30.

2                   **THE COURT:** Is that virtual as well?

3                   **MR. VERRILLO:** In person as I understand it, but I  
4 can call them and see if they have any other options.

03:42:06PM 5                   **THE COURT:** Then you have a 2 o'clock that same day?

6                   **MR. VERRILLO:** Yes.

7                   **THE COURT:** Maybe we can just proceed for -- how  
8 long does it take you to get to that county if you need to go?

9                   **MR. VERRILLO:** Cheektowaga is outside of Buffalo, so  
03:42:21PM10 probably an hour and a half or so.

11                   **THE COURT:** Maybe we won't be in session that day.  
12 We'll wait and see, maybe we can avoid that day if we're  
13 moving -- if we're doing well, we may be available to avoid  
14 that date all together.

03:42:34PM15                   **MR. VERRILLO:** I did have a matter with Judge  
16 Vazzana on the 15th and the 17th from 10 to 4:30. So I can  
17 see if he would give us an afternoon. It's --

18                   **THE COURT:** The 15th and 17th of November? We'll be  
19 done by then.

03:42:49PM20                   **MR. VERRILLO:** We're going to be done before that  
21 then? That would be good then, okay.

22                   **THE COURT:** Don't worry about that. We'll be done,  
23 even if we have to go full days to get done, we're going to  
24 get done, okay? All right. Thank you.

03:43:00PM25                   (**WHEREUPON**, proceedings adjourned at 3:43 p.m.)

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**CERTIFICATE OF REPORTER**

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4                   In accordance with 28, U.S.C., 753(b), I certify that  
5 these original notes are a true and correct record of  
6 proceedings in the United States District Court for the  
7 Western District of New York before the Honorable Frank P.  
8 Geraci, Jr. on September 20th, 2021.

9

10 S/ Christi A. Macri

11 Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)  
Official Court Reporter

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